

Mar. 31. 2006 6:15PM Olympic Law

04-CV-02407-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LANDOVER CORPORATION, a Washington
corporation d/b/a COLDWELL BANKER
BAIN ASSOCIATES,

Plaintiff,

v.

BELLEVUE MASTER, LLC, a Delaware
limited liability company,

Defendant.

No. C04-2407 TSZ

STIPULATION AND JOINT MOTION
TO GRANT SUMMARY JUDGMENT
STRIKING REMAINING
AFFIRMATIVE DEFENSES PLED BY
DEFENDANT BELLEVUE MASTER

The Plaintiff and Defendant, by and through their respective counsel of record, hereby stipulate and jointly move for the Court to grant Plaintiff's Motion for Final Summary Judgment filed March 7, 2006 insofar as it strikes Bellevue Master's remaining affirmative defenses: Statute of Frauds, Failure to Mitigate Damages, Laches, Lack of Privity, Revocation and Acceptance, Failure to Comply with Statutory Requirements, Breach of Fiduciary Duties, and Commercial Frustration. These defenses shall be stricken, with prejudice.

The stipulation and joint motion shall in no way prejudice Bellevue Master's appeal rights with respect to any other defense or claim asserted in these proceeding, including, specifically, the final judgment entered and the January 6, 2006 ruling on summary judgment previously entered by this Court.

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STIPULATION AND JOINT MOTION GRANTING
SUMMARY JUDGMENT STRIKING REMAINING
AFFIRMATIVE DEFENSES PLED BY DEFENDANT
BELLEVUE MASTER - 1

Case No. C04-2407 TSZ

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Rodrick J. Dembowski, WSBA No. 31479
Attorneys for Defendant Bellevue Master, LLC

Dennis J. McGlothlin, WSBA No. 28177
Barbara Barrilleaux, WSBA No. 36702
Attorneys for Plaintiff Landover Corporation

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7 Having considered the foregoing stipulation and joint motion of the parties,
DK: no. 62

8 IT IS ORDERED THAT, Plaintiff's Motion for Summary Final Judgment filed March 7,
9 is GRANTED
2006 insofar as it strikes Bellevue Master's remaining affirmative defenses: Statute of Frauds,
10 Failure to Mitigate Damages, Laches, Lack of Privity, Revocation and Acceptance, Failure to
11 Comply with Statutory Requirements, Breach of Fiduciary Duties, and Commercial Frustration
12 are hereby be stricken, with prejudice.

13 Bellevue Master's appeal rights with respect to any other defense or claim asserted in
14 these proceedings, including, specifically and without limitation, the final judgment entered, and
15 the January 6, 2006 ruling on summary judgment previously entered by this Court, shall not be
16 affected by this Order.

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18 DATED this 3rd day of April 2006.

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20 
21 The Honorable Thomas S. Zilly

22 Presented by:

23 POSTER PEPPER PLLC

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25 Christopher Osborn, WSBA No. 13608
Rodrick J. Dembowski, WSBA No. 31479
26 Attorneys for Defendant Bellevue Master, LLC


STIPULATION AND JOINT MOTION GRANTING
SUMMARY JUDGMENT STRIKING REMAINING
AFFIRMATIVE DEFENSES PLED BY DEFENDANT
BELLEVUE MASTER - 2

Case No. C04-2407 TSZ

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3 Approved as to Form:

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7 Dennis J. McGlothlin, WSBA No. 28177
8 Barbara Barilleaux, WSBA No. 36702
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STIPULATION AND JOINT MOTION GRANTING
SUMMARY JUDGMENT STRIKING REMAINING
AFFIRMATIVE DEFENSES FILED BY DEFENDANT
BELLEVUE MASTER - 3

Case No. C04-2407 TSZ

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